

1 DANIEL G. BOGDEN
United States Attorney
2 AMBER M. CRAIG
Assistant United States Attorney
3 333 Las Vegas Blvd. South, Suite 5000
Las Vegas, Nevada 89101
4 PHONE: (702) 388-6336
FAX: (702) 388-6698
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6 ***UNITED STATES DISTRICT COURT***
DISTRICT OF NEVADA

7 **-oOo-**

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.

11 DAVID ALLEN GARRETSON,

12 Defendant.

2:13-cr-029-APG-GWF

MOTION TO CONTINUE
GOVERNMENT'S DEADLINE TO
DEFENDANT'S OBJECTIONS TO
MAGISTRATE COURT'S FINDINGS
AND RECOMMENDATION
(Motion to Dismiss, Docket #50)

13 The United States of America, by and through DANIEL G. BOGDEN, United States
14 Attorney, and AMBER M. CRAIG, Assistant United States Attorney, respectfully move this Court
15 to continue the Government's deadline to respond to the Defendant's Objections to the Magistrate
16 Court's Findings and Recommendation from August 9, 2013, to August 16, 2013.

17 This motion is entered into based on the following:

18 1. Following the Honorable Magistrate Judge George Foley's issuing his Report and
19 Recommendation (R&R) that Defendant's Motion to Dismiss be denied, the parties initiated plea
20 negotiations. Defense counsel requested that the Government hold off on preparing and filing its
21 response to the Defendant's Objections to the R&R until such time as the plea negotiations were
22 complete. On July 18, 2013, the parties submitted a Stipulation (Docket #87) to continue the
23 Government's deadline to respond to the Objections, so that plea negotiations could be finalized.
24 The Court granted the stipulation on July 19, 2013, and set the Government's deadline for August 2,

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2 2013 (Docket #88). On July 28, 2013, defense counsel informed the Government that the Defendant
3 declined the Government's plea offer. The parties then filed another stipulation, requesting that the
4 Government's response deadline be continued to August 9, 2013, and that the Defendant's deadline
5 to file objections to the Report and Recommendation to dismiss Defendant's Motion to Suppress be
6 continued (Docket #93).

7 2. Due to Government counsel's current case load, in conjunction with Government
8 resource and staffing issues, Government counsel needs an additional week to prepare its response to
9 the Defendant's objections. Therefore, the Government respectfully requests that its deadline be
10 continued to August 16, 2013.

11 3. Government counsel spoke with defense counsel, Brenda Weksler, who stated that she
12 will not be filing an opposition to this Motion.

13 4. Trial in this matter was continued to November 4, 2013.

14 5. For the reasons stated above, the ends of justice would best be served by a continuance of
15 the response deadline.

16 6. Additionally, denial of this request for continuance could result in a miscarriage of
17 justice.

18 7. The additional time requested by this Stipulation is excludable in computing the time
19 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
20 States Code, Sections 3161(h)(3)(A) and (h)(7)(A), considering the factors under Title 18, United
21 States Code, Sections 3161(h)(7)(B)(i) and (h)(7)(B)(iv).

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2 8. This is the first motion for a continuance filed herein.¹

3 DATED this 9th day of August, 2013.

4 Respectfully Submitted,

5 DANIEL G. BOGDEN
6 United States Attorney

7 /s/ Amber M. Craig
8 AMBER M. CRAIG
9 Assistant United States Attorney
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¹ The Government's response deadline was continued twice based upon stipulations of the parties.

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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

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5 UNITED STATES OF AMERICA,

6 Plaintiff,

7 vs.

8 DAVID ALLEN GARRETSON,

9 Defendant.

2:13-cr-029-APG-GWF

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER

FINDINGS OF FACT

10 Based upon the pending Stipulation of counsel, and good cause appearing therefore, the
11 Court finds that:

12 1. Following the Honorable Magistrate Judge George Foley's issuing his Report and
13 Recommendation (R&R) that Defendant's Motion to Dismiss be denied, the parties initiated plea
14 negotiations. Defense counsel requested that the Government hold off on preparing and filing its
15 response to the Defendant's Objections to the R&R until such time as the plea negotiations were
16 complete. On July 18, 2013, the parties submitted a Stipulation (Docket #87) to continue the
17 Government's deadline to respond to the Objections, so that plea negotiations could be finalized.
18 The Court granted the stipulation on July 19, 2013, and set the Government's deadline for August 2,
19 2013 (Docket #88). On July 28, 2013, defense counsel informed the Government that the Defendant
20 declined the Government's plea offer. The parties then filed another stipulation, requesting that the
21 Government's response deadline be continued to August 9, 2013, and that the Defendant's deadline
22 to file objections to the Report and Recommendation to dismiss Defendant's Motion to Suppress be
23 continued (Docket #93).

2. Due to Government counsel's current case load, in conjunction with Government resource and staffing issues, Government counsel needs an additional week to prepare its response to the Defendant's objections. Therefore, the Government respectfully requests that its deadline be continued to August 16, 2013.

3. Government counsel spoke with defense counsel, Brenda Weksler, who stated that she will not be filing an opposition to this Motion.

4. Trial in this matter was continued to November 4, 2013.

5. For the reasons stated above, the ends of justice would best be served by a continuance of the response deadline.

6. Additionally, denial of this request for continuance could result in a miscarriage of justice.

7. The additional time requested by this Stipulation is excludable in computing the time

8. within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Sections 3161(h)(3)(A) and (h)(7)(A), considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and (h)(7)(B)(iv).

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the Defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.


The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United

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2 States Code, Sections 3161(h)(1)(A), (h)(7)(A), (h)(7)(B)(i), and (h)(7)(B)(iv).

3 **ORDER**

4 IT IS THEREFORE ORDERED that the Government's deadline to file its response to
5 Defendant's Objections to Magistrate Court's Findings and Recommendations, currently scheduled
6 for August 9, 2013, be vacated and continued to the 16th day of August, 2013.

7 DATED this 9th day of August, 2013.

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11 UNITED STATES DISTRICT JUDGE
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